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Petition to Director of Art Unit 3643
Regarding: Examiner's Amendments
Applicant: Huey Thomas Crochet
Application #: 10,083,771
Examiner: Kurt Rowen
Art Unit: 3643
Title: Dynamic Snag Resistant Fishing Weight (2-27-02)
37CFR 1.8

Sir,

In accordance with the notice of allowability mailed to the applicant on 10, 18, 2005 said applicant requests that the director withdraw the allowance for patent given to said applicant. See CFR 1.313 and MPEP 1308.

Under MPEP RULES the applicant has 3 months from the 10, 18, 2005 mailing date of said notice to petition for said withdrawal in a timely fashion.

The reasons for said request are as stated below and would leave the applicant open to contest after patent issues which would make said applicant's fishing weight unmarketable.

1. After examiner's amendments the applicant's specification has no best mode.

The examiner has deleted the applicant's original description of invention section which contained the applicant's best mode for carrying out his invention as well as his preferred embodiment.

Hemisphere heads and a cylindrical body are both supported by the applicant's description of invention that the examiner deleted.

2. The examiner replaced said description of invention with his own detailed description of preferred embodiment.

Said embodiment omits said hemisphere heads, cylindrical body, and best mode from said detailed description and describes an indefinite placement for Hole 3 which resides in part with the hemisphere head terminating the short angled portion of the body of the fishing weight.

The examiner's embodiment refers to Hole 3 twice wherein he firstly describes that said hole resides "with the one end of the weight 4" and secondly that "hole 3 in the short angled portion of the weight 4 would be 1/8 inch in diameter and reside 1/16 inch from an end of the short angled portion".

Taken together they describe that hole 3 resides with the one end of weight 4, 1/16 of an inch from an end of the short angled portion.

Since one end of the angled portion terminates in a free end and the other end terminates where the bend begins, the examiner has placed the hole in a near proximity to either one end or the other of the short angled portion.

Such a description clearly does not particularly point out and accurately describe structure required for definiteness, MPEP2173 – 2173.06, and clearly does not support Claim 22.

The examiner's replacement for the description of the drawing consists of only one line which states that "the figure shown is the applicant's snag resistant fishing weight".

Clearly said replacement also does not particularly point out or describe even one of the features of Claim 22 and does not support said claim because it is indefinite.

It is notable that while the examiner has omitted all description of hemisphere heads and cylindrical body from his amendments, he made no attempt to remove said heads and cylindrical body from the applicant's Claim 22.

The record will show that he amended Claim 22 only to insert the two-letter word "at" into said claim regarding the placement of hole 3 which only serves to make said placement even more indefinite.

After the examiner's amendments to the applicant's specification, description of drawing, and Claim 22, the applicant is now claiming structure that is not supported by said specification or description of drawing because of missing structure and indefinite description.
MPEP 2173-2173.06

Clearly, after amendment, the applicant's specification is everything that it should not be and has obviously been designed to be that way since it was an experienced examiner's amendments that made it so.

Obvious errors resulting from said amendment include the following:

1. The description of preferred embodiment omits structure of the original disclosure such that the examiner has introduced new matter by omission. 37 CFR 1.53 (b)
2. The description of the embodiment gives a vague and indefinite description of the placement of Hole 3 along the short angled portion of the body of the fishing weight.

Said description does not support Claim 22 because of omitted structure and indefiniteness. 35 USC 112 – second paragraph

3. The description of preferred embodiment does not teach how to make said weight because of the omitted structure and indefinite description of Hole 3. 35 USC 112 – first paragraph – MPEP 2174

Said embodiment lacks enablement.

4. For the same reasons stated adjacent number 3 above and because the applicant's description of other versions of said weight and alternative building materials do not appear in the

examiner's amendments, there is no best mode described for carrying out the applicant's invention. MPEP 2165.04

5. Clearly, after amendments, the disclosure and claim do not correlate.

The record shows, just as clearly, that the applicant's disclosure and claim do correlate before amendment and is in condition for allowance. MPEP 2173.02

Accordingly, the applicant requests withdrawal of the allowance for patent such that the applicant's specification, description of drawing, and Claim 22 can be restored to the condition they were in immediately prior to the examiner's amendments and be found in condition for allowance. 37 CFR 1.313 and MPEP 1308

I hereby certify that this correspondence is being facsimile transmitted to the USPTO (FAX # 571-273-8300) on this day JAN. 12, 2006.

Huey Thomas Crochet

